

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

The Trustees of Purdue University

***Plaintiff and Counter
Defendant,***

V.

**STMicroelectronics International N.V.,
STMicroelectronics, Inc.**

Defendants and Counter Plaintiffs.

CIVIL NO. 6:21-CV-00727-ADA-DTG

JURY TRIAL DEMAND

ORDER DENYING ECF NO. 362

Before the Court is Plaintiff's *Daubert* Motion to Exclude Testimony of Dr. Dean Neikirk. ECF No. 362. Defendants ("ST") opposed the motion. ECF No. 389. Plaintiffs replied. ECF No. 398. The Court heard arguments at the pretrial conference on October 4, 2023. Plaintiff's motion was denied in part and taken under advisement in part to be later ruled on. For the reasons discussed herein, the Court orders that the motion is **DENIED**.

The disputed portion of Dr. Neikirk’s report pertains to measurements for the width of the JFET region. Dr. Neikirk describes the process used by ST during manufacturing to measure the space between the P-bodies (also referred to as P-wells). *See* ECF No. 362-1 ¶ 290. Dr. Neikirk also describes a method of measuring the distance between the source regions. *Id.* ¶¶ 298-305. Plaintiff’s Motion challenges both Dr. Neikirk’s method of measuring the distance between the P-bodies and his application of the claim language. ECF No. 361 at 3-12 (challenging the measurements as “unreliable as a matter of law” and “an incorrect claims construction of JFET region.”).

Dr. Neikirk describes the method ST uses to measure the distance between the P-bodies during manufacturing. ECF 362-1 ¶¶ 290-297. The Court is persuaded that there is sufficient

evidence in the record that Dr. Neikirk's method of measurement and opinions based on those measurements are admissible and that any dispute regarding the method of measurement goes to the weight of the evidence.

The Court has clarified its construction of the disputed claim element by separate order-- "the region between the first and second source regions, that does not include the p-wells." From the Court's review of Dr. Neikirk's report, he simply notes that "the distance between the source regions in the accused products is an important consideration" and provides his opinion regarding how to measure such distance. *See* ECF No. 362-1 ¶¶ 298-305. To the extent Dr. Neikirk offered opinions of claim construction, any objection to those opinions is moot in light of the Court's additional claim construction order. From the Court's review of Dr. Neikirk's report, he simply notes that "the distance between the source regions in the accused products is an important consideration" and provides his opinion regarding how to measure such distance. *See* ECF No. 362-1 ¶¶ 298-305. Thus, ECF No. 362 is **DENIED**.

IT IS SO ORDERED.

Signed this 10th day of October, 2023


DEREK T. GILLILAND
UNITED STATES MAGISTRATE JUDGE